

Utah Captive Act Reference Index

General Provisions Applicable to All Captive Insurers

Utah Code Reference

Provisions of Title 31A do not apply unless Chapter 37 makes them applicable.

Section 31A-37-103

Provisions of Title 31A relating to reorganizations, receiverships, and injunction apply.

Section 31A-37-104(1)

Captive insurance companies may write all lines of insurance unless limited by Chapter 31A.

Section 31A-37-202(1)(a)

Captive insurance companies may not write Workers Compensation insurance or any component of personal motor vehicle or homeowner's insurance.

Section 31A-37-202(1)(a), (b)

Captive insurance companies may not accept or cede reinsurance except as permitted by Section 31-A-37-303.

Section 31A-37-202(1)(b)(iv)

Captive insurance companies are to hold an annual board of directors meeting in Utah.

Section 31A-37-202(2)(b)

Captive insurance companies are to maintain a principal place of business in Utah.

Section 31A-37-202(2)(c)

Captive insurance companies must appoint a resident registered agent for service of process.

Section 31A-37-202(2)(d)

Captive insurance companies may not use a deceptively similar business name.

Section 31A-37-203

Captive insurance companies may not pay dividends or make a distribution in excess of statutory limits without prior approval of the commissioner.

Section 31A-37-204(4)

Captive insurance companies must be formed with not less than 3 incorporators of which two must be Utah residents.

Section 31A-37-301(3)

A certificate of public good must be obtained from commissioner before articles of incorporation may be filed with the Utah Division of Corporations.

Section 31A-37-301(4)

One Utah resident must be on the board of directors of a captive insurance company.

Section 31A-37-301(9)

Unless restricted by other provisions of Title 31A or Chapter 37 captive insurance companies are not restricted in their investments.

Section 31A-37-302

Captive insurance companies are not subject to guaranty association laws or insolvency funds.

Section 31A-37-305(2)

Unless otherwise provided in Chapter 37, a captive is required to file only an annual statement of its financial condition.

Section 31A-37-501(1), (2)

Captive insurance companies are examined on a tri-annual basis, which may be enlarged to five years if statutory requirements are met.

Section 31A-37-502(2)

Utah Captive Act Reference Index

Specific Provisions Applicable to Association Captive Insurance Companies

An association captive insurance company is an insurance company that insures the risks of its member organizations and affiliates of the member organization.

An association captive insurance company may only insure the risks of the members of the association and affiliates of the members.

The required paid-in capital and surplus to form an association captive insurance company is \$750,000.

An association captive insurance company may be organized as a stock company with its shares held by the association or as a mutual company with no stock and governed by a board elected by the member organizations of the association.

An association captive insurance company must observe the investment requirements of Title 31A in general and Chapter 37 in particular. Other reliable methods of valuation may be approved by the commissioner.

An association captive insurance company formed as a stock or mutual corporation may be converted to a reciprocal insurance company or merged into a reciprocal insurance company subject to the approval of the commissioner.

An association captive insurance company must file an annual financial statement with the Utah insurance department by March 1.

An association captive insurance captive may write all lines of insurance except workers compensation and any component of personal motor vehicle or homeowners insurance.

An association captive insurance company is subject to requirements that apply to captive insurance companies in general and has the same privileges unless otherwise excepted.

Utah Code Reference

Section 31A-37-102(4)

Section 31A-37-202(1)(b)(ii)

Section 31A-37-204(1)(a)(ii),
205(1)(a)(ii)

Section 31A-37-301-(2)

Section 31A-37-302(1)(a), (b), 302
(2)(a)

Section 31A-37-306

Section 31A-37-501(c), 31A-4-113

Section 31A-37-202(1)(a), (b)(iv)

Section 31A-37-103

Utah Captive Act Reference Index

Specific Provisions Applicable to Branch Captive Insurance Companies

A branch captive insurance company is an alien captive insurance company that is authorized by the commissioner to transact insurance business in Utah through a business unit located in Utah.

A branch captive insurance company must be formed as pure captive insurance company in regard to the business written in Utah.

A branch captive insurance company must maintain a principal place of business for branch operations of the branch captive insurance company.

A branch captive insurance company must establish and maintain a trust fund in the amount of all policy reserve losses, allocate loss adjustment expenses, incurred but not reported losses and unearned premium as security for payment of its liabilities attributable to branch operations in the United States.

The required capital and surplus required to form a branch captive insurance company is \$250,000.

A branch captive insurance company is to be incorporated as a stock company with shares held by the stockholders of the branch captive insurance company.

A branch captive insurance company is not restricted in its investment practices unless they threaten the solvency of the company.

A branch captive insurance company may make loans to its parent or an affiliate upon approval of the commissioner but the loan may not be made from required paid in capital and surplus.

Utah Code Reference

Section 31A-37-102(6)

Section 31A-37-105

Section 31A-37-203(2)(c)(ii)

Section 31A-37-204(3)

Section 31A-37-205(1)(a)(i)

Section 31A-37-301(1)

Section 31A-37-302(2)

Section 31A-37-302(3)(a)(ii)

A branch captive may file its annual financial information on a fiscal year basis upon approval by the commissioner and the information will be due sixty days after the end of the fiscal year.

Section 31A-37-501(3), (4)

A branch captive insurance company is examined only on its branch operations only provided it meets certain requirements.

Section 31A-37-504(2)

A branch captive insurance company can write the business that a pure captive insurance company can write and is subject to the same limitations.

Section 31A-37-202(1)

Utah Captive Act Reference Index

Specific Provisions Applicable to Captive Reinsurance Companies

A captive reinsurance company is a reinsurance company that is formed or is licensed by the commissioner that is a stock corporation that is wholly owned by a qualified reinsurance company.

A qualified reinsurance company is a company that is authorized to write reinsurance in Utah and that has net worth of at least \$500,000,000 and a consolidated debt to total capital ration not greater than .50

A captive reinsurance company must be organized as a stock corporation with the shares of stock held by the captive reinsurance company's shareholders.

At least three incorporators must incorporate the company and two of the incorporators must be residents of Utah.

A certificate of public good must be obtained from the commissioner before the articles of incorporation of a captive reinsurance company may be filed with Division of Corporations.

One member of the board of directors of a captive reinsurance company must be a Utah resident.

A captive is authorized to write property and casualty reinsurance and to issue reinsurance contracts in any state.

The required capital or surplus of a captive reinsurance company must be the greater of \$300,000,000 or 10% of its reserves.

At least 35% of a captive reinsurance company are to be managed by an asset manager domiciled in Utah.

Utah Code Reference

Section 31A-37-102(9)

Section 31A-37-102(25)

Section 31A-37-601(1)

Section 31A-37-601(2)(b)

Section 31A-37-601(3)

Section 31A-37-601(5)

Section 31A-37-602(1)(a), (b)

Section 31A-37-603(1)

Section 31A-37-604

A captive reinsurance company is subject to the requirements that apply to captive insurers in general and has the same privileges unless otherwise excepted.

Section 31A-37-103

Utah Captive Act Reference Index

Specific Provisions Applicable to an Industrial Insured Captive Insurance Company

An industrial insured captive insurance company is a company that insures the risks of an industry group and affiliates of the industry group that owns, controls or holds the power to vote the stock of an industrial insured captive insurance company or has completed voting control of a mutual industrial captive insurance company or that is a risk retention group organized under the federal Product Liability Risk Retention Act of 1981.

An industrial insured captive insurance company may insure only the risks of the industrial insured group or affiliates of the industrial insured group.

The required paid-in-capital and surplus for an industrial insured captive insurance company is \$500,000.

An industrial insured captive insurance company may organized as a stock company with the shares of stock held by the stockholders of the industrial insured captive insurance company or as a mutual company without stock that is governed by a body that is elected by the members of the industrial groups that organize the industrial insured captive insurance company.

An industrial insured captive insurance company must observe the investment requirements of Title 31A in general and Chapter 37 in particular. Other reliable methods of valuation may be approved by the commissioner. However, the restrictions on allowable investments are not applicable.

Utah Code Reference

Section 31A-37-102-(17), (18)

Section 31A-37-202(1)(a)(iii)

Section 31A-37-204(1)(a)(iii), 205(1)(a)(iii)

Section 31A-37-301(2)

Section 31A-37-302(1)(a)(b), (2)

An industrial insured captive insurance company formed as a stock or mutual corporation may be converted to a reciprocal insurance company or merged into a reciprocal insurance company subject to the approval of the commissioner.

Section 31A-37-306

An industrial insured captive insurance company must file an annual financial statement by March 1.

Section 31A-37-501(2), 31A-4-113.4

An industrial insured captive insurance company is subject to the requirements that apply to captive insurance companies in general and has the same privileges unless otherwise excepted..

Section 31A-37-103

Utah Captive Act Reference Index

Specific Provisions Applicable to Pure Captive Insurance Companies

A pure captive insurance company is a company that insures risks of its parent and affiliates.

A pure captive insurance company may insure only the risks of its parent or affiliates or of controlled unaffiliated business.

A pure captive insurance company must maintain a principal place of business for branch operations of the branch captive insurance company.

The required capital and surplus required to form a pure captive insurance company is \$250,000.

A pure captive insurance company is to be incorporated as a stock company with shares held by the stockholders of the pure captive insurance company.

A pure captive insurance company is not restricted in its investment practices unless they threaten the solvency of the company.

A pure captive insurance company may make loans to its parent or an affiliate upon approval of the commissioner but the loan may not be made from required paid in capital and surplus.

A pure captive may file its annual financial information on a fiscal year basis upon approval by the commissioner and the information will be due sixty days after the end of the fiscal year.

A pure captive insurance company is subject to the requirements that apply to captive insurers in general and has the same privileges unless otherwise excepted in Chapter 37.

Utah Code Reference

Section 31A-37-102(24)

Section 31A-37-202(1)(b)(i)

Section 31A-37-203(2)(c)(ii)

Section 31A-37-204(1)(a)(i), 205(1)(a)(i)

Section 31A-37-301(1)

Section 31A-37-302(2)

Section 31A-37-302(3)(a), (b), (c)

Section 31A-37-501(3)

Section 31A-37-103

Utah Captive Act Reference Index

Specific Provisions Applicable to Special Purpose Captive Insurance Companies

Special Purpose Captive Insurance Company is not defined but is considered as a captive insurance company.

A Special Purpose Captive Insurance Company is subject to all the rules that apply to captive insurance companies in general.

A special purpose captive insurance company may insure only the risk of its parent.

Upon approval of the commissioner a special captive insurance company may provide insurance, reinsurance or both.

The paid-in capital and surplus for a special purpose captive insurance company will be an amount determined by the commissioner taking into consideration the company's business plan, feasibility study, pro-forma statements and the nature of the risks being insured.

A special purpose captive insurance company may write any line of insurance except workers' compensation insurance.

A special purpose captive insurance company may not write any component of personal motor vehicle or homeowner's insurance.

A special purpose captive insurance company may not accept or cede reinsurance except as provided in Section 31A-37-303 or unless the commissioner approves the risks that are to be insured or reinsured.

Utah Code Reference

Section 31A-37-103(8)

Section 31A-37-103(8)

Section 31A-37-202(1)(b)(iv)

Section 31A-37-202(1)(c)

Section 31A-37-202(1)(v)

Section 31A-37-202(1)

Section 31A-37-202(1)(b)(v)

Section 31A-37-202(1)(b)(vi), (c)

A special purposed captive insurance company may be formed as a stock company, a mutual company or a reciprocal company.

Section 31A-37-202(4)

A special purpose captive insurance company is subject to the requirements that apply to a captive insurance company in general and has the same privileges unless other wise excepted.

Section 31A-37-103

A special purpose captive insurance company must observe the investment requirements of Title 31A in general and Chapter 37 in particular.

Section 31A-37-302(1)

Utah Captive Act Reference Index

Specific Provisions Applicable to Sponsored Captive Insurance Companies.

Sponsored captive insurance companies must segregate the liability of each participant into a protected cell.

Assets of each protected cell are used only to pay expenses and claims attributed only to the protected cell.

A sponsored captive insurance company may write all lines of insurance except workers' compensation, personal motor vehicle, and homeowner's insurance.

A sponsored captive insurance company may not accept or cede reinsurance except as permitted by Section 31A-37-303.

The paid in capital and surplus required to form a sponsored captive insurance company is \$1,000,000.

A sponsored captive insurance company must be incorporated as a stock company and the shares of stock are to be held by the stockholders of the sponsored captive insurance company.

A sponsored captive insurance company must comply with the investment requirements of Title 31 generally and Chapter 37 specifically.

A sponsored captive insurance company may be formed by one or more sponsors.

The shareholders of a sponsored captive insurance company are limited to the participants in the company and the sponsors of the company.

Utah Code Reference

Section 31A-37-103(27)

Section 31A-37-104(2)(a)

Section 31A-37-303(1)(a), (b)

Section 31A-37-202(1)(b)(iv)

Section 31A-37-204(1)(a)(iv), 205(1)(a)(vi).

Section 31A-37-301(1)

Section 31A-37-302(1)(a)

Section 31A-37-401(1)

Section 31A-37-401(2)

Each protected cell of a sponsored captive insurance company is to be accounted for separately on the books and records of the company

Section 31A-37-401(2)(b)

A sponsored captive insurance company is to file an annual financial statement, including financial information on each protected cell.

Section 31A-27-401(2)(f)

The sponsors of a sponsored captive insurance company must be an insurer domiciled in another state, a reinsurer approved in another state, a captive insurance company domiciled in Utah, or an insurance company holding system that controls an insurer licensed in any state and is registered with the domicile in which the controlled insurer is located.

Section 31A-37-402(1)

The risk coverage in each protected cell must be fronted by an insurer licensed in another state, reinsured by an insurer approved by the commissioner, or be secured by an approved trust fund located in Utah or the U.S. for the benefit of creditors and policyholders.

Section 31A-37-402(2)

Risk retention groups may not sponsor or participate in a sponsored captive insurance company.

Section 31A-37-402(3)

A sponsored captive insurance company may discount its loss and loss adjustment expenses when supported by an opinion of an independent actuary.

Section 31A-37-404